



CITY OF LEESBURG PLANNING & ZONING DIVISION RECOMMENDATIONS

PROJECT: Code of Ordinances Amendments
REQUEST: Amending Chapter 25 Land Development Code
CASE NO.: AMDT-13-141 – Section 25-164, Nonconforming properties, and
Section 25-325 Nonconforming Landscaping
MEETING DATE: February 20, 2014

THE PLANNING & ZONING DIVISION RECOMMENDS:

APPROVAL of the request

Summary:

The City Commission has indicated in the past that it would like the City to have the ability to enhance nonconforming sites, and to require such properties to come into compliance with current zoning requirements to include site signage and landscaping for the commercial corridor areas along US 27 and 441. The intent of this code provision is to provide a tool to enhance the aesthetics of our corridors to promote development of these areas. To that end, staff has developed this section to address these concerns.

Staff recommends the addition of Section 25-164 “*Nonconforming properties*” which allows the continuation of nonconformities until such time as they have been vacant or otherwise abandoned for a one (1) year period. The ordinance allows for a one (1) time expansion of operating non-conforming structures, criteria for continuation of nonconforming uses, the restoration and repair of nonconformities, and termination of nonconformities. Section 25-325 deals in a similar manner with non-conforming landscaping, requiring upgrades to landscaping when expanding a structure or parking area by more than 25%, when changing the use of a structure, and allowing an exemption to upgrading the landscape in case of natural disaster.

Action Requested:

Vote to approve the referenced amendments to the Code of Ordinances Chapter 25 Land Development Code as proposed by staff and forward to the City Commission for consideration.

ARTICLE IV. ZONING DISTRICT CODE

Sec. 25-164 - Nonconforming developed properties.

- (a) ***Continuation of use.*** A use, existing developed site, building or structure, lawfully in existence at the effective date of the article, which was nonconforming at the time this section was enacted, or made nonconforming by the passage of this section or any applicable amendment thereto may be continued except as otherwise provided in this division.
- (b) ***Regulation of nonconforming uses, sites and structures.*** No existing developed site, building or premises which does not conform in one or more ways to any requirement of this code shall not be redeveloped, enlarged, extended, reconstructed, substituted or structurally altered except when changed to a conforming site or use, or when required to do so by law, or as follows:
 - (1) ***Restoration.*** Any nonconforming site, sign or structure which has less than fifty (50) percent of its previous existing site or floor area made unsafe or unusable may be restored, reconstructed, or used as before, provided that the site or floor area of such use, building or structure shall not exceed the site or floor area which existed prior to such damage. All repairs shall be completed within six (6) months after damages occur or such site or structure shall not be rebuilt unless brought into compliance with this code.
 - (2) ***Repairs.*** Normal maintenance, repairs and incidental alteration of a site or structure which does not comply with this code or which contains a nonconforming use is permitted, provided it does not extend the area or volume of the structure or space occupied by the nonconforming use. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability; provided, however, that no structural alterations shall be made which would increase the number of dwelling units, or the size of the nonconforming structure.
 - (3) ***Expansion.*** Nonconforming uses, sites and structures which exist at the adoption of this article may apply for one (1) expansion with site plan approval. Such expansion must not exceed twenty-five (25) percent of the site or total floor area. Such expansion must not create additional nonconformities, objectionable, undesirable or out of character nuisances in the zoning district where located.
- (c) ***Termination of nonconforming uses and structures.***
 - (1) ***Abandonment.*** A nonconforming sign, site or use which is not used or which is vacant (not operated without interruption) for a period of one year, or the change of use to a more restricted use for any period of time, shall be considered terminated and/or abandoned thereof and such nonconforming sign, site or use shall not thereafter be revived without being brought into compliance with this section.
 - (2) ***Partial destruction.*** When fifty (50) percent or more of the existing floor or site area of a nonconforming structure or site is destroyed by fire or other casualty or act of God and as a result becomes unsafe or unusable, the sign, site or use of

such property, as a nonconforming use of the property, shall thereafter be terminated.

- (3) ***Termination or required modification of certain uses.*** Each of the nonconforming properties, structures, signs or uses specified is deemed sufficiently objectionable, undesirable and out of character in the zoning district in which such use or structure is located as to depreciate the value of the property and uses permitted in the district and otherwise inhibit the proper and orderly development of such district. Therefore, each such nonconforming property, use or structure, once determined to be terminated and/or abandoned under this section, shall be required to comply with requirements per this section in the event of any change in use.
- (4) ***Site design requirements*** of nonconforming properties required to comply with this section shall include landscaping along the front property boundary adjacent to the street corridor and adjacent to the building façade visible to the corridor. In addition, existing pole and building signs shall be brought into compliance with monument sign and building sign requirements for the property visible to the corridor. Adjustments of site improvements required by this section shall be determined by the Community Development Director as related to the overall corridor design improvements.

Sec 25-325. Nonconforming Landscaping.

A. Nonconforming Landscaping. For landscaping that is nonconforming, the following shall apply:

1. Existing development shall comply with the landscape regulations of Sections 25-327, 25-328 and 25-329 when the floor area of a structure or parking area is increased by twenty-five (25) percent or more.
2. Where the increase in area of a new structure, an additional structure, parking area or vehicular use area is less than any of the requirements of subsection (1) above, only the new structure, addition, increased parking area or increased vehicular use area shall be buffered in accordance with these provisions.
3. Nonconforming site or use landscaping which is not maintained or which is vacant (not operated without interruption) for a period of one year, or the change of use to a more restricted use for any period of time, shall be considered termination and/or abandonment thereof and such nonconforming site or use landscaping shall not thereafter be revived without being brought into full compliance with this code.
4. Each of the nonconforming sites or landscaping specified is deemed sufficiently objectionable, undesirable and out of character in the zoning district in which such sites or landscaping is located as to depreciate the value of the property and uses permitted in the district and otherwise inhibit the proper and orderly development of such district. Therefore, each such nonconforming site or landscaping, once determined to be terminated and/or abandoned under this section, shall be required to comply with ***Section 25-164-Nonconforming developed properties*** of the code in the event of any change in use.
5. Nonconforming landscaping shall not be required to be brought into compliance as a result of a natural disaster.